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May 13, 2004

Secretary
Federal Communications Commission
Washington, D.C. 20554

RE: Motion To Extend Comment Period In FCC Docket 04-163

Dear Commissioners and Commission Staff,

Attached is a Motion, submitted by Nickolaus E. Leggett N3NL and myself, which asks the FCC to extend the scheduled deadlines for Written Comments and Reply Comments in FCC Docket 04-163.

The Motion notes that the currently scheduled deadlines have been calculated by adding 30 days and 60 days, respectively, to the *electronic posting date* of the public comments solicitation Notice. This has the effect of reducing, or possibly even precluding, notice to parties who rely upon the FEDERAL REGISTER for notification of FCC proceedings. Therefore, Mr. Leggett and I ask the FCC to re-calculate the respective comment deadlines by adding 30 and 60 days to the *FEDERAL REGISTER publication date*.

This Motion was filed earlier today through use of the FCC's Electronic Comment Filing System (ECFS). Unfortunately, in making this electronic filing, I neglected to change the ECFS "default" classification from "Comment" to "Motion".

I apologize for my error. I am now correcting it by re-submitting the Motion under the correct classification.

Sincerely,

Don Schellhardt, Esquire

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FCC's Task Force To Promote)
Wireless Broadband Technologies) FCC Docket 04-163

MOTION FOR EXTENSION OF COMMENT DEADLINES
BY DON SCHELLHARDT, ESQUIRE
AND NICKOLAUS E. LEGGETT

Acting as individuals, Don Schellhardt, Esquire and Nickolaus E. Leggett submit this Motion to extend the currently scheduled comment deadlines in FCC Docket 04-163.

We note that the solicitation of public comments in this Docket was posted on the FCC's Web Site on Wednesday, May 5, with the Written Comments deadline set at Thursday, June 3 and the Reply Comments deadline set at Thursday, July 1. The first date is 30 days after, and the second date is 60 days after, the *electronic posting* date.

This is *not* the usual procedure used by the FCC, and other Federal regulatory agencies, in calculating a comment period. The usual formula for calculating the earliest acceptable Written Comments deadline is 30 days, or more, after the *FEDERAL REGISTER publication* date. Typically, another 30 days, or more, are then added to allow for the preparation and filing of Reply Comments.

Since FEDERAL REGISTER publication has not happened yet, we cannot specify what the dates for the comment deadlines should be. We do know, however, that June 3 and July 1 are too early.

If the solicitation of public comments were published in the FEDERAL REGISTER *tomorrow*, the appropriate comment deadlines would be no earlier than Monday, June 14 and Tuesday, July 12 -- adding more than a week to the current comment period.

If the present comment deadlines are *not* changed, then any parties who rely exclusively upon the FEDERAL REGISTER may have little or no notification of the Docket 04-163 proceedings before their Written Comments are due. Indeed, they have already lost more than a week! Such a development would constitute an effective deprivation of these parties' basic rights to "notice and comment". It would also distort the pool of comments -- by giving those of us who rely on electronic posting an unjustified advantage over those who continue to rely on the FEDERAL REGISTER.

The FCC should need no reminder that the FEDERAL REGISTER is still the official "voice of the Federal Government" for announcements and rulemakings. It has played this role for longer than the lifetime of anyone who reads these words.

Should the Commission believe the time has come to end public reliance on the FEDERAL REGISTER, requiring people to learn about their own government's actions through electronic means alone, the FCC should express its intentions openly and settle in for a long and weighty, and probably testy, public debate. It must also be prepared to present a clear, compelling case for why "warp speed deliberations" are necessary.

To "deep six" the FEDERAL REGISTER silently and secretly, by implication alone, is inexcusable.

We ask the Commission to correct this procedural problem immediately -- by changing the Written Comments deadline to the FEDERAL REGISTER publication date plus 30 days, and changing the Reply Comments deadline to the FEDERAL REGISTER publication date plus 60 days.

Respectfully submitted,

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Dated: _____
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